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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PETAR MRKONJIC) NO. CV
Plaintiff,)
vs.) COMPLAINT
DELTA FAMILY-CARE AND SURVIVORSHIP) FOR BENEFITS UNDER AN
PLAN, an ERISA plan;) EMPLOYEE BENEFIT PLAN
DELTA RETIREMENT PLAN, an ERISA)
plan; The Administrative Committee)
of Delta Air Lines, Inc., a plan)
administrator;)
DOES 1 through 10, inclusive)
Defendants.)

COMES NOW THE PLAINTIFF, Petar Mrkonjic, and for causes of action against all defendants, alleges as follows:

1. This court has subject matter jurisdiction of this dispute without regard to the citizenship of the parties pursuant to 29 USC 1132(a)(1)(B), (a)(3), and (e)(1).

2. Plaintiff is informed and believes, and based upon such information and belief alleges, that DELTA FAMILY-CARE AND SURVIVORSHIP PLAN (hereinafter "Disability Plan") and DELTA RETIREMENT PLAN (Retirement Plan) are ERISA plans formed by Delta Air Lines, Inc. (Delta) under which the plaintiff is entitled to benefits. At all times herein mentioned, plaintiff was entitled

1 to long term disability benefits under the Disability Plan. Said benefits were to
2 be given to the plaintiff should he become totally disabled.

3 3. Plaintiff is and was at all times herein mentioned, a resident of the
4 County of Los Angeles, State of California.

5 4. Plaintiff is unaware of the true names and capacities of defendants named
6 herein as DOES 1 and 2 and 4 through 10 and has therefore named such
7 defendants by such fictitious names. Plaintiff will ask leave of court to amend the
8 complaint to state the true names and capacities of the DOE defendants when the
9 same are ascertained.

10 5. Plaintiff is informed and believes, and based upon such information and
11 belief alleges, that each of the defendants was acting as the agent and employee
12 of each of the remaining defendants with regard to all actions described herein and
13 all benefits due plaintiff and all damage caused to plaintiff.

14 6. The Administrative Committee of Delta Air Lines, Inc. (The Committee)
15 was the plan administrator of the Disability Plan and Retirement Plan at all times
16 relevant.

17 7. At all times relevant, Plaintiff was employed by Delta. He was injured
18 in December 2003 and received short term disability benefits from the Disability
19 Plan until he returned to work in February 2004. After working more than 2
20 weeks, he stopped working again because of the injury that he received in late
21 2003, which injury was the same injury that was the basis upon which he received
22 short term disability benefits starting in 2003.

23 9. Plaintiff stopped working in March 2004 because of his disability and
24 timely reapplied to The Committee, and the Disability Plan for the Disability
25 Plan's benefits.

26 10. On April 29, 2005, the defendants told plaintiff that he was not covered
27 by the Defendant Disability Plan. The plaintiff was never told by the Committee
28 or any of the other defendants or their agents that he could appeal the denial of

1 benefits under the Defendant Disability Plan or why that plan did not apply to him
2 in violation of 29 CFR §2560.503-1(g).

3 11. On November 6, 2006, the Plaintiff appealed the denial of disability
4 benefits under that plan.

5 12. On May 1, 2007, plaintiff was notified by the Defendant Disability Plan
6 that a review of the file showed that he met the definition of disabled under the
7 Defendant Disability Plan.

8 13. On June 15, 2007, The Committee wrote to the plaintiff that he was
9 entitled to benefits under the Disability Plan retroactive to September 23, 2004, in
10 the gross amount of \$2,717.05 per month. The Committee claimed that the
11 Disability Plan was entitled to a credit against the monthly benefits due the
12 plaintiff for the sums that he received from his pension because he took an early
13 retirement, from his workers' compensation claim, and from his social security
14 disability benefits, leaving \$0 to be paid by the Disability Plan to the plaintiff.
15 Plaintiff filed a lawsuit in this court against the defendants, case number CV 10-
16 2087, challenging the correctness of set-offs to disability benefits and seeking to
17 rescind his election to take pension benefits. On April 14, 2014 the court issued
18 its judgment. The judgment, among other things, rescinded the plaintiff's pension
19 decision and gave the defendants instructions on how to recalculate the plaintiff's
20 disability benefits with regard to set-offs to benefits.

21 15. On September 17, 2014, the Committee announced its decision
22 regarding its calculation of the set-offs and repayments that the Disability and
23 Pension Plans are entitled. The decision of the Committee does not conform to
24 the judgment entered by this court in case number CV 10-2087 in that it seeks
25 from plaintiff's disability benefits more money for the Pension Plan than that
26 ordered by the judgment. As a result of the Committee's decision, plaintiff has
27 been and continues to be denied disability benefits due him under the judgment.

28 16. Plaintiff is left with no choice but to file this law suit at the present

1 time.

2 17. Plaintiff has been required to hire attorneys to represent him in this
3 matter and to recover benefits due him under the various Plans. Plaintiff has and
4 will incur attorney fees. The exact amount is unknown to plaintiff and he seeks
5 leave to amend this complaint when the same has been ascertained or at the time
6 of trial according to proof.

7 18 Plaintiff is entitled to arrears in benefits owed to him and an award of
8 interest on all money that should have been paid to him.

9 19. Plaintiff seeks relief under ERISA §502(a)(1)(B).

10 WHEREFORE, plaintiff prays this court:

11 1. For all disability benefits due him in the past and future under the
12 Disability plan plus interest;

13 2. For reasonable attorney fees;

14 6. For costs of suit; and

15 7. For such other and further relief as this court may deem just and proper.

16 DATED: March 26, 2015

17 /s/

18 CHARLES J. FLEISHMAN
Attorney for plaintiff